

that one of two doses usually gave relief to periodic headaches of women; and that it does not upset the stomach.

On August 30, 1939, the claimant filed an amended answer, which denied the misbranding charges and challenged the constitutionality of the Federal Food, Drug, and Cosmetic Act on the grounds: first, that it provided for unlawful search and seizure; and second, that it was too general and uncertain in its provisions.

On January 2, 1940, the claimant having represented to the court that since the commencement of the several libel proceedings it had changed the formula of the product manufactured and sold by it, and the said claimant having consented to the entry of a decree, judgment of condemnation and forfeiture was entered. The decree contained the following provision: "*Ordered, Adjudged, and Decreed*, That this is a proceeding in rem and that this decree is to be without prejudice to the rights of the United States of America or of the said claimant. The Emerson Drug Company of Baltimore City, in any other litigation, and without prejudice to the right of the claimant to deny in any other or future litigation that the libeled product herein is misbranded or otherwise violates the provisions of the Federal Food, Drug and Cosmetic Act, the court having taken no proof in support of the allegations of the libel and answer."

On January 8, 1940, an order was entered by the court providing for release of the product under bond conditioned that the citric acid and the bottles be salvaged, and that the remaining ingredients of the product be destroyed.

DRUGS SEIZED BECAUSE OF DEVIATION FROM OFFICIAL OR OWN STANDARDS OR BECAUSE OF SUBSTITUTION¹

VITAMIN PREPARATIONS

82. Adulteration and misbranding of cod liver oil. U. S. v. One 30-gallon Drum and Three 38-pound Drums of Cod Liver Oil. Default decree of condemnation and destruction. (F. D. C. Nos. 1082, 1083. Sample Nos. 55959-D, 55960-D.)

One lot of this product contained not more than 42.5 A. O. A. C. chick units of vitamin D per gram; whereas the United States Pharmacopoeia requires that cod liver oil shall contain not less than 85 U. S. P. units of vitamin D per gram (an A. O. A. C. chick unit of vitamin D is by definition the equivalent of a U. S. P. unit of vitamin D). The other lot was labeled as containing 400 U. S. P. vitamin D units per gram and 8,000 U. S. P. vitamin A units per gram, but contained not more than 50 A. O. A. C. chick units of vitamin D per gram and not more than 1,580 units of vitamin A per gram.

On November 28, 1939, the United States attorney for the Western District of Michigan filed a libel against one 30-gallon drum of cod liver oil and three 38-pound drums of cod liver oil at Petoskey, Mich., alleging that the article had been shipped in interstate commerce on or about September 15, 1939, by the Val-A Co. from Chicago, Ill.; and charging that it was adulterated and misbranded. It was labeled in part, "Val-A 'Cavaller'."

One lot of the article was alleged to be adulterated in that it was represented as a drug the name of which is recognized in an official compendium, and its strength differed from, and its quality and purity fell below, the standard set forth in such compendium. It was alleged to be misbranded in that the representation in the labeling that it contained 85 A. O. A. C. units of vitamin D was false and misleading.

The remaining lot was alleged to be adulterated in that its strength differed from, and its purity and quality fell below, that which it purported or was represented to possess. It was alleged to be misbranded in that the representations in the labeling that it contained 400 U. S. P. vitamin D units per gram and 8,000 U. S. P. vitamin A units per gram, were false and misleading.

On January 4, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

83. Adulteration and misbranding of cod liver oil. U. S. v. 4 Drums of Cod Liver Oil. Default decree of condemnation and destruction. (F. D. C. No. 700. Sample No. 48434-D.)

This product was labeled as containing 200 A. O. A. C. chick units of vitamin D per gram, whereas it contained not more than 135 such units of vitamin D per gram.

On October 9, 1939, the United States attorney for the District of Minnesota filed a libel against four 30-gallon drums of cod liver oil at Waseca, Minn.,

¹ See also N. J. Nos. 96 (Booth's Camphorated Oil and Carbollic Salve), 115, and 123.